

HONORABLE FRANKLIN D. BURGESS

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TODD and ANNE ERICKSON, individually and
the marital community comprised thereof,

Plaintiffs,

v.

MICROAIRE SURGICAL INSTRUMENTS,
LLC, a Virginia Limited Liability Company doing
business in the State of Washington,

Defendant.

NO. C08-5745-FDB

DECLARATION OF JAIME ALLEN

I, Jaime Allen, hereby declare and state as follows:

1. I am over eighteen years of age and otherwise competent to testify herein. This declaration is based upon my personal knowledge.
2. I represent Defendant MicroAire Surgical Instruments, LLC ("MicroAire") in the above-entitled matter, and make my declaration in that capacity.
3. I served subpoenas on Dr. Jennifer Forshey in care of her counsel, Stephen Teller, on March 31, 2010. On the same day, Mr. Teller informed me that Tony Shapiro, counsel for Plaintiffs in this matter, had informed him that he would move to quash the subpoenas.
4. MicroAire has attempted to obtain the requested information through the subpoenas to Dr. Forshey, through discovery requests to Plaintiffs, and through the public records. Plaintiffs

1 have moved to quash the subpoenas and have refused to produce the materials pursuant to the
 2 discovery requests. MicroAire has obtained what is available in the public record. When I
 3 attempted to obtain deposition transcripts at MicroAire's cost directly from the court
 4 reporters who transcribed the depositions, I was told that Plaintiffs' counsel objected to the
 5 transcripts being produced, so the court reporter would not provide them. I do not know
 6 whether the court reporter was referring to Plaintiffs' present counsel or the counsel for
 7 SOMS in the *Forshey* litigation.

8 5. It is my understanding that Dr. Forshey is willing to travel to Seattle at MicroAire's expense
 9 and that her counsel is prepared to produce responsive, non-duplicative documents.

10 6. I have not seen the Settlement Agreement between SOMS and Dr. Forshey, or any part
 11 thereof. However, it is my understanding that the confidentiality provision in the Settlement
 12 Agreement between SOMS and Dr. Forshey would allow for Dr. Forshey's deposition and for
 13 her to produce documents pursuant to a subpoena.

14 7. Attached hereto are true and correct copies of the following documents:

- 15 • Exhibit 1- Subpoenas served on Dr. Jennifer Forshey c/o Stephen Teller, dated March
 16 31, 2010.
- 17 • Exhibit 2- Excerpts from the deposition of John Pascaloff, dated December 7, 2009.
- 18 • Exhibit 3- Expert report of Dennis Foster.
- 19 • Exhibit 4- Expert Report of Noel Weiss.
- 20 • Exhibit 5- Expert Report of John Hamm.
- 21 • Exhibit 6- Exhibit 3 to the Declaration of Anne Erickson in Opposition to Motions
 22 for Summary Judgment, filed in *Forshey v. SOMS et. al.*, (W.D. Wash. Case No. C06-
 23 5335RJB).
- 24 • Exhibit 7- Order (1) Granting in Part and Denying in Part Plaintiff's Motion for
 25 Summary Judgment on Contract Claims, (2) Granting in Part and Denying in Part
 26 Plaintiff's Motion for Summary Judgment on Counterclaims; and (3) Granting and
 27 Denying Evidentiary Motions to Strike, filed in *Forshey v. SOMS et. al.*, (W.D. Wash.
 28 Case No. C06-5335RJB).
- Exhibit 8- Stipulated Findings of Fact, Conclusions of Law and Agreed Order, filed
 In re: Robert T. Erickson, Department of Health, Dental Quality Assurance
 Commission, Docket No. 06-01-A-1051DE.

- Exhibit 9 - Declaration of Robert Todd Erickson, filed In re: Robert T. Erickson, Department of Health, Dental Quality Assurance Commission, Docket No. 06-01-A-1051DE.

I declare under penalty of perjury that the above information is true and correct, to the best of my knowledge.

EXECUTED in Seattle, Washington on this 26th day of April, 2010.

/s Jaime D. Allen

Jaime D. Allen

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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DATED this 26th day of April, 2010.

/s Jaime D. Allen
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